

AMENDED IN ASSEMBLY APRIL 6, 2011
AMENDED IN ASSEMBLY MARCH 31, 2011
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 906

Introduced by Assembly Member Galgiani

February 17, 2011

An act to amend Section 2166.5 of the Elections Code, and to amend Sections 6205, 6205.5, and 6206 of, and to amend the heading of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of, the Government Code, relating to protection of victims and witnesses.

LEGISLATIVE COUNSEL'S DIGEST

AB 906, as amended, Galgiani. Protection of victims and murder witnesses: address confidentiality.

(1) Existing law authorizes victims of domestic violence, sexual assault, or stalking to complete an application in person at a community-based victims' assistance program to be approved by the Secretary of State for the purpose of enabling state and local agencies to respond to requests for public records without disclosing a program participant's residence address contained in any public record and otherwise provide for confidentiality of identity for that person, subject to specified conditions. Any person who makes a false statement in an application is guilty of a misdemeanor.

This bill would include witnesses who testified in a murder trial within these provisions. *The bill would provide that a witness who testified in a murder trial who has a post office box designated as the address where he or she can be contacted shall be responsible for the cost of leasing or renting the post office box.* By including a new category of

eligible persons, this bill would impose new duties on local public officials and expand the scope of an existing crime, thereby creating a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2166.5 of the Elections Code is amended
2 to read:

3 2166.5. (a) Any person filing with the county elections official
4 a new affidavit of registration or reregistration may have the
5 information relating to his or her residence address, telephone
6 number, and e-mail address appearing on the affidavit, or any list
7 or roster or index prepared therefrom, declared confidential upon
8 presentation of certification that the person is a participant in the
9 Address Confidentiality for Victims of Domestic Violence, Sexual
10 Assault, and Stalking, and for Murder Witnesses program pursuant
11 to Chapter 3.1 (commencing with Section 6205) of Division 7 of
12 Title 1 of the Government Code or a participant in the Address
13 Confidentiality for Reproductive Health Care Service Providers,
14 Employees, Volunteers, and Patients program pursuant to Chapter
15 3.2 (commencing with Section 6215) of that division.

16 (b) Any person granted confidentiality under subdivision (a)
17 shall:

18 (1) Be considered a vote by mail voter for all subsequent
19 elections or until the county elections official is notified otherwise
20 by the Secretary of State or in writing by the voter. A voter
21 requesting termination of vote by mail status thereby consents to
22 placement of his or her residence address, telephone number, and
23 e-mail address in the roster of voters.

(2) In addition to the required residence address, provide a valid mailing address to be used in place of the residence address for election, scholarly, or political research, and government purposes. The elections official, in producing any list, roster, or index may, at his or her choice, use the valid mailing address or the word “confidential” or some similar designation in place of the residence address.

(c) No action in negligence may be maintained against any government entity or officer or employee thereof as a result of the disclosure of the information that is the subject of this section unless by a showing of gross negligence or willfulness.

(d) Subdivisions (a) and (b) shall not apply to any person granted confidentiality upon receipt by the county elections official of a written notice by the address confidentiality program manager of the withdrawal, invalidation, expiration, or termination of the program participant’s certification.

SEC. 2. The heading of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code is amended to read:

CHAPTER 3.1. ADDRESS CONFIDENTIALITY FOR VICTIMS OF
DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING, AND FOR
MURDER WITNESSES

SEC. 3. Section 6205 of the Government Code is amended to read:

6205. The Legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, or stalking, or harm for testifying in a murder trial frequently establish new names or addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the changed name or location of a victim of domestic violence, sexual assault, or stalking, or of a witness who testified in a murder trial to enable interagency cooperation with the Secretary of State in providing name and address confidentiality for victims of domestic violence, sexual assault, or stalking, and for witnesses who testified in a murder trial, and to enable state and local agencies to accept a program

1 participant's use of an address designated by the Secretary of State
2 as a substitute mailing address.

3 SEC. 4. Section 6205.5 of the Government Code is amended
4 to read:

5 6205.5. Unless the context clearly requires otherwise, the
6 definitions in this section apply throughout this chapter.

7 (a) "Address" means a residential street address, school address,
8 or work address of an individual, as specified on the individual's
9 application to be a program participant under this chapter.

10 (b) "Domestic violence" means an act as defined in Section
11 6211 of the Family Code.

12 (c) "Program participant" means a person certified as a program
13 participant under Section 6206.

14 (d) "Sexual assault" means an act or attempt made punishable
15 by Section 220, 261, 261.5, 262, 264.1, 266c, 269, 285, 286, 288,
16 288.5, 288a, 289, or 647.6 of the Penal Code.

17 (e) "Stalking" means an act as defined in Section 646.9 of the
18 Penal Code.

19 (f) "Murder witness" means a witness who testified in a murder
20 trial.

21 SEC. 5. Section 6206 of the Government Code is amended to
22 read:

23 6206. (a) An adult person, a parent or guardian acting on behalf
24 of a minor, or a guardian acting on behalf of an incapacitated
25 person may apply to the Secretary of State to have an address
26 designated by the Secretary of State serve as the person's address
27 or the address of the minor or incapacitated person. An application
28 shall be completed in person at a community-based victims'
29 assistance program. The application process shall include a
30 requirement that the applicant shall meet with a victims' assistance
31 counselor and receive orientation information about the program.
32 The Secretary of State shall approve an application if it is filed in
33 the manner and on the form prescribed by the Secretary of State
34 and if it contains all of the following:

35 (1) A sworn statement by the applicant that the applicant has
36 good reason to believe both of the following:

37 (A) That the applicant, or the minor or incapacitated person on
38 whose behalf the application is made, is a victim of domestic
39 violence, sexual assault, or stalking, or is a witness who testified
40 in a murder trial.

1 (B) That the applicant fears for his or her safety or his or her
2 children's safety, or the safety of the minor or incapacitated person
3 on whose behalf the application is made.

4 (2) If the applicant alleges that the basis for the application is
5 that the applicant, or the minor or incapacitated person on whose
6 behalf the application is made, is a victim of domestic violence or
7 sexual assault, or is a witness who testified in a murder trial, the
8 application may be accompanied by evidence including, but not
9 limited to, any of the following:

10 (A) Police, court, or other government agency records or files.

11 (B) Documentation from a domestic violence or sexual assault
12 program if the person is alleged to be a victim of domestic violence
13 or sexual assault.

14 (C) Documentation from a legal, clerical, medical, or other
15 professional from whom the applicant or person on whose behalf
16 the application is made has sought assistance in dealing with the
17 alleged domestic violence or sexual assault or possible harm for
18 testifying in a murder trial.

19 (D) Any other evidence that supports the sworn statement, such
20 as a statement from any other individual with knowledge of the
21 circumstances that provides the basis for the claim, or physical
22 evidence of the act or acts of domestic violence or sexual assault.

23 (3) If the applicant alleges that the basis for the application is
24 that the applicant, or the minor or incapacitated person on whose
25 behalf the application is made, is a victim of stalking, the
26 application shall be accompanied by evidence including, but not
27 limited to, any of the following:

28 (A) Police, court, or other government agency records or files.

29 (B) Legal, clerical, medical, or other professional from whom
30 the applicant or person on whose behalf the application is made
31 has sought assistance in dealing with the alleged stalking.

32 (C) Any other evidence that supports the sworn statement, such
33 as a sworn statement from any other individual with knowledge
34 of the circumstances that provide the basis for the claim, or physical
35 evidence of the act or acts of stalking.

36 (4) A statement of whether there are any existing court orders
37 involving the applicant for child support, child custody, or child
38 visitation, and whether there are any active court actions involving
39 the applicant for child support, child custody, or child visitation,
40 the name and address of legal counsel of record, and the last known

1 address of the other parent or parents involved in those court orders
2 or court actions.

3 (5) A designation of the Secretary of State as agent for purposes
4 of service of process and for the purpose of receipt of mail.

5 (A) Service on the Secretary of State of any summons, writ,
6 notice, demand, or process shall be made by delivering to the
7 address confidentiality program personnel of the Office of the
8 Secretary of State two copies of the summons, writ, notice, demand,
9 or process.

10 (B) If a summons, writ, notice, demand, or process is served on
11 the Secretary of State, the Secretary of State shall immediately
12 cause a copy to be forwarded to the program participant at the
13 address shown on the records of the address confidentiality
14 program so that the summons, writ, notice, demand, or process is
15 received by the program participant within three days of the
16 Secretary of State's having received it.

17 (C) The Secretary of State shall keep a record of all summonses,
18 writs, notices, demands, and processes served upon the Secretary
19 of State under this section and shall record the time of that service
20 and the Secretary of State's action.

21 (D) The office of the Secretary of State and any agent or person
22 employed by the Secretary of State shall be held harmless from
23 any liability in any action brought by any person injured or harmed
24 as a result of the handling of first-class mail on behalf of program
25 participants.

26 (6) The mailing address where the applicant can be contacted
27 by the Secretary of State, and the phone number or numbers where
28 the applicant can be called by the Secretary of State.

29 (7) The address or addresses that the applicant requests not be
30 disclosed for the reason that disclosure will increase the risk to the
31 applicant of domestic violence, sexual assault, or stalking, or the
32 risk of harm to a witness who testified in a murder trial.

33 (8) The signature of the applicant and of any individual or
34 representative of any office designated in writing under Section
35 6208.5 who assisted in the preparation of the application, and the
36 date on which the applicant signed the application.

37 (b) Applications shall be filed with the office of the Secretary
38 of State.

39 (c) Upon filing a properly completed application, the Secretary
40 of State shall certify the applicant as a program participant.

1 Applicants shall be certified for four years following the date of
2 filing unless the certification is withdrawn or invalidated before
3 that date. The Secretary of State shall by rule establish a renewal
4 procedure.

5 (d) Upon certification, in any case where there are court orders
6 or court actions identified in paragraph (4) of subdivision (a) and
7 there is no other or superseding court order dictating the specific
8 terms of communication between the parties, the Secretary of State
9 shall, within 10 days, notify the other parent or parents of the
10 address designated by the Secretary of State for the program
11 participant and the designation of the Secretary of State as agent
12 for purposes of service of process. The notice shall be given by
13 mail, return receipt requested, postage prepaid, to the last known
14 address of the other parent to be notified. A copy shall also be sent
15 to that parent's counsel of record.

16 (e) *If the applicant is a witness who testified in a murder trial,*
17 *and the mailing address designated by the Secretary of State as*
18 *the address where the applicant can be contacted is a post office*
19 *box, the applicant shall be responsible for the cost of leasing or*
20 *renting the post office box.*

21 (e)
22 (f) A person who falsely attests in an application that disclosure
23 of the applicant's address would endanger the applicant's safety
24 or the safety of the applicant's children or the minor or
25 incapacitated person on whose behalf the application is made, or
26 who knowingly provides false or incorrect information upon
27 making an application, is guilty of a misdemeanor. A notice shall
28 be printed in bold type and in a conspicuous location on the face
29 of the application informing the applicant of the penalties under
30 this subdivision.

31 SEC. 6. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution for certain
33 costs that may be incurred by a local agency or school district
34 because, in that regard, this act creates a new crime or infraction,
35 eliminates a crime or infraction, or changes the penalty for a crime
36 or infraction, within the meaning of Section 17556 of the
37 Government Code, or changes the definition of a crime within the
38 meaning of Section 6 of Article XIII B of the California
39 Constitution.

1 However, if the Commission on State Mandates determines that
2 this act contains other costs mandated by the state, reimbursement
3 to local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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